

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ELLIOT GORNALL,)	
)	CASE NO. 1:18CV1102
Petitioner,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
KIMBERLY CLIPPER, ¹ Warden,)	
)	<u>MEMORANDUM OF OPINION</u>
Respondent.)	<u>AND ORDER</u>

Petitioner Elliot Gornall filed a *pro se* Petition for a Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) ([ECF No. 1](#)) alleging one (1) ground for relief which challenges the constitutional sufficiency of his convictions in Ashland County, Ohio Court of Common Pleas [Case No. 15-CRI-041](#). Petitioner was sentenced to an aggregate prison term of 56 years with an aggregate fine of \$15,700 on 66 counts of illegal use of a minor in nudity-oriented material or performance, six counts of attempted illegal use of a minor in nudity-oriented material or performance, 55 counts of pandering obscenity involving a minor, 45 counts of illegal use of a minor in nudity-oriented material or performance, two counts of aggravated possession of drugs, possession of marijuana, and receiving stolen property. The case was referred to Magistrate

¹ According to the Ohio Department of Rehabilitation & Correction website (<https://appgateway.drc.ohio.gov/OffenderSearch/Search/Details/A680473>) (last visited February 4, 2020)), Petitioner is now confined at the Lorain Correctional Institution. The Warden of that institution, Kimberly Clipper, has been substituted for James Haviland, Warden.

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Judge Thomas M. Parker for preparation of a report and recommendation pursuant to [28 U.S.C. § 636](#) and [Local Rule 72.2\(b\)\(2\)](#). On January 14, 2020, the magistrate judge issued a Report and Recommendation ([ECF No. 10](#)). In his Report, the magistrate judge recommends that the Court deny the habeas petition because the sole claim on Fourth Amendment grounds is not cognizable under [Stone v. Powell](#), 428 U.S. 465 (1976); [Good v. Berghuis](#), 729 F.3d 636 (6th Cir. 2013); and, [Davis v. Burt](#), No. 18-1515, 2018 WL 5821722 (6th Cir. Sept. 11, 2018). [ECF No. 10 at PageID #: 715](#). Assuming *arguendo* this Court could evaluate Petitioner's claim on the merits, the magistrate judge finds that review would result in the conclusion that the claim would fail for lack of merit. [ECF No. 10 at PageID #: 717](#).

[Fed. R. Civ. P. 72\(b\)\(2\)](#) provides that objections to a report and recommendation must be filed within 14 days after service. Objections to the Report were, therefore, due on January 31, 2020.² Neither party has timely filed objections. Therefore, the Court must assume that the parties are satisfied with the magistrate judge's recommendations. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. [Thomas v. Arn](#), 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); [Howard v. Secretary of Health and Human Services](#), 932 F.2d 505 (6th Cir. 1991); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981).

Accordingly, the Report and Recommendation of the magistrate judge is hereby adopted. Elliot Gornall's Petition for a Writ of Habeas Corpus will be dismissed.

² Under [Fed. R. Civ. P. 6\(d\)](#), three (3) days must be added to the 14-day time period because Petitioner was served a copy of the Report by mail. See [Thompson v. Chandler](#), 36 Fed.Appx. 783, 784 (6th Cir. 2002).

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The Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).

The Clerk is directed to issue a copy of this Memorandum of Opinion and Order by regular mail to Kimberly Kendall, Esq., Patituce & Associates, 16855 Foltz Parkway, Strongsville, Ohio 44149.³

IT IS SO ORDERED.

February 18, 2020
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

³ Attorney Kendall entered her appearance as counsel for Petitioner on November 21, 2019. *See* Notice of Appearance ([ECF No. 7](#)). [Local Rule 5.1\(c\)](#) requires that attorneys receive notice of filings electronically.